

CITY COUNCIL REPORT



Meeting Date: February 25, 2014
 General Plan Element: ***Neighborhoods***
 General Plan Goal: ***Enhance and protect neighborhoods***

ACTION

Chapter 18, Public Nuisance and Maintenance Ordinance. Adopt Resolution No. 9626, to declare as a public record, Exhibit A, "Amendments to Chapter 18, Public Nuisance and Property Maintenance, of the Scottsdale Revised Code," and adopt Ordinance No. 4133, to amend Chapter 18, as shown in Exhibit A to Resolution No. 9626.

BACKGROUND

The City's Public Nuisance and Property Maintenance Ordinance found under Chapter 18 of the Scottsdale Revised Code establishes standards for the maintenance of property within the City. By doing so it promotes the health, safety, economic, aesthetic and general welfare of the community and citizens of Scottsdale. This Chapter also protects and preserves neighborhoods against blight, public nuisances and deterioration, and helps maintain a clean environment. The City of Scottsdale Code Enforcement Department is responsible for enforcing Chapter 18 and through enforcement of this ordinance, the department enhances neighborhoods and serves the community by seeking the cooperation of all Scottsdale residents and business owners in helping to keep Scottsdale well maintained and safe.

The City Council adopted Chapter 18 in 2002. While there have been several minor amendments to it since, this is the first comprehensive review since its adoption.

ANALYSIS & ASSESSMENT

Significant Issues to be Addressed

- A general clean-up and consolidation of the divisions and sections making it more user friendly.
- The addition of a specific prohibition of barbed wire (and similar type) fencing on residential land to promote public safety. The ordinance contains a limited exception in certain zoning districts for control of livestock.

Action Taken _____

- An increase of the initial civil penalties from \$200 to \$250. Note that in violations of Chapter 18, the Court has the discretion to reduce the penalties by 50 percent if the property owner can demonstrate compliance at the time of the hearing.
- The deletion of Administrative Citations as an enforcement tool. This is consistent with the recently adopted Text Amendment 6-TA-2013 where Administrative Citations were deleted from the Zoning Ordinance.
- A provision defining when criminal charges can be brought under the ordinance.

Community Involvement

The information on the proposed changes was posted on the City's website at <http://www.scottsdaleaz.gov/codes/propertymaintenance> and included ways the public could provide input – online feedback, calling or writing.

Feedback was solicited through Scottsdale Update and P & Z Link, two city eNewsletters. Information was also sent to email distributions for Block Watch and Neighborhood Notification.

Two inquiries were received and both were addressed in other parts of the city code.

RESOURCE IMPACTS

Available funding

There are no additional funds needed.

Staffing, Workload Impact

There will be no additional staff needed to administer these changes. Revisions to the computer systems, procedures and enforcement can be handled by existing staff.

OPTIONS & STAFF RECOMMENDATION

Recommended Approach

Move to adopt Resolution No.9626, to declare as a public record, Exhibit A, "Amendments to Chapter 18, Public Nuisance and Property Maintenance, of the Scottsdale Revised Code," and adopt Ordinance No. 4133, to amend Chapter 18, as shown in Exhibit A to Resolution No. 9626.

RESPONSIBLE DEPARTMENT(S)

Planning, Neighborhoods & Transportation, City Attorney

STAFF CONTACTS (S)

Raun Keagy, Neighborhood Services Director, rkeagy@scottsdaleaz.gov; Luis Santaella, Sr. Assistant City Attorney, lsantaella@scottsdaleaz.gov

APPROVED BY


Randy Grant, PNT Administrator

(480) 312-2664, rgrant@scottsdaleaz.gov

2/6/14
Date


Bruce Washburn, City Attorney

(480) 312-2659, bwashburn@scottsdaleaz.gov

2/10/14
Date

ATTACHMENTS

1. Resolution No. 9626
2. Ordinance No. 4133
3. Amendments to Chapter 18, Public Nuisance and Property Maintenance, of the Scottsdale Revised Code

RESOLUTION NO. 9626

A RESOLUTION OF THE CITY OF SCOTTSDALE, MARICOPA COUNTY, ARIZONA, DECLARING AS PUBLIC RECORDS CERTAIN DOCUMENTS FILED WITH THE CITY CLERK OF THE CITY OF SCOTTSDALE AND ENTITLED "AMENDMENTS TO CHAPTER 18, PUBLIC NUISANCE AND PROPERTY MAINTENANCE, OF THE SCOTTSDALE REVISED CODE"

WHEREAS, it is necessary to make certain changes to Chapter 18 of the Scottsdale Revised Code; and

WHEREAS, State Law permits cities to declare documents to be public records and adopt ordinances by reference.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Scottsdale as follows:

Section 1. That certain document entitled "AMENDMENTS TO CHAPTER 18, PUBLIC NUISANCE AND PROPERTY MAINTENANCE, OF THE SCOTTSDALE REVISED CODE", a copy of which is attached to this Resolution as Exhibit A, is hereby declared to be a public record and three copies are ordered to remain on file in the office of the City Clerk and kept available for public use and inspection.

PASSED AND ADOPTED by the Council of the City of Scottsdale this 25th day of February, 2014.


ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

Carolyn Jagger
City Clerk

W. J. "Jim" Lane
Mayor

APPROVED AS TO FORM:



Bruce Washburn, City Attorney
By: Luis E. Santaella, Senior Assistant City Attorney

Attachment #1

ORDINANCE NO. 4133

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SCOTTSDALE, AMENDING CHAPTER 18, PUBLIC
NUISANCE AND PROPERTY MAINTENANCE, OF THE
SCOTTSDALE REVISED CODE

BE IT ORDAINED by the Council of the City of Scottsdale as follows:

Section 1. That three copies each of certain documents known as the AMENDMENTS TO CHAPTER 18, PUBLIC NUISANCE AND PROPERTY MAINTENANCE, OF THE SCOTTSDALE REVISED CODE which are on file in the office of the City Clerk and which were made a public record by Resolution No. 9626 of the City of Scottsdale, is hereby referred to, adopted in its entirety and made a part hereof as if fully set out in this Ordinance.

Section 2. The penalties for violations of Chapter 18 are in Sections 18-13, 18-18, 18-65 and 18-66 with new language shown in shaded format and deleted language in strikethrough format:

Sec.18-13. - Each Day Separate Violation.

Each day any violation of any provision of this chapter or the failure to perform any act or duty required by this chapter continues shall constitute a separate offense.

Sec. 18-18. Misdemeanor Violations.

Notwithstanding the provisions of section 18-17, a violation of this chapter may only be deemed a class one misdemeanor if the violation is:

- (a) A public nuisance as defined in section 18-5, or
- (b) The second or subsequent violation of any other section within two years of the first violation.

Sec. 18-65. - Civil penalties.

- (a) If the violation concerns land used for residential purposes, the fine shall be as follows: The fine for a defendant's first citation under this chapter shall be two hundred fifty dollars (\$250.00) per violation. The fine for a defendant's second violation under this chapter within two (2) years of the date of the first violation shall be five hundred dollars (\$500.00) per violation. The fine for a defendant's third or subsequent violation under this chapter within two (2) years of the date of the first violation shall be seven hundred fifty dollars (\$750.00) per violation. The court shall also impose all other fees and surcharges applicable under state statutes and chapter 9 of the City Code.
- (b) If the violation concerns land used for non-residential purposes, the fine shall be as follows: The fine for a defendant's first citation under this chapter shall be ~~five hundred dollars (\$500.00)~~ seven hundred fifty dollars (\$750.00) per violation. The fine for a defendant's second violation under this chapter within two (2) years of the date of the first violation shall be one thousand five hundred dollars (\$1,500.00) per violation. The fine for a defendant's

third or subsequent violation under this chapter within two (2) years of the date of the first violation shall be two thousand dollars (\$2,000.00) per violation. The court shall also impose all other fees and surcharges applicable under state statutes and chapter 9 of the City Code.

- (c) However, on proper evidence that the violation(s) has been corrected and the defendant is in compliance with this chapter at the time of the hearing, in addition to all other fees and surcharges applicable under state statutes and chapter 9 of the City Code:
 - (1) For a first violation, the court shall impose a minimum fine of at least one hundred dollars (\$100.00) per violation for land used for residential purposes and at least two hundred fifty dollars (\$250.00) per violation for land used for non-residential purposes.
 - (2) For a second or subsequent violation under this chapter within two (2) years after the date of the first violation, the court shall impose a minimum fine of at least two hundred dollars (\$200.00) per violation for land used for residential purposes and at least five hundred dollars (\$500.00) per violation for land used for non-residential purposes.
- ~~(d) Upon a finding that a defendant is responsible under the state statutes set forth at A.R.S. §§ 12-001—12-009 regarding buildings and land used for criminal activity, as amended, the court shall grant a permanent injunction and may grant additional relief in conformance with these state statutes.~~

Sec. 18-66. - Criminal penalties.

- (a) A criminal violation of this chapter is a class one 4 misdemeanor. For a first conviction under this chapter, for land used for residential purposes, the court shall impose a criminal fine of at least five hundred dollars (\$500.00) per violation. For a first conviction under this chapter, for land used for non-residential purposes, the court shall impose a criminal fine of at least one thousand dollars (\$1,000.00) per violation. In addition, the court shall impose all other fees and surcharges applicable under state statutes and chapter 9 of the City Code.
- (b) However, on proper evidence that the violation(s) has been corrected and the defendant is in compliance with this chapter at the time of the hearing, in addition to all other fees and surcharges applicable under state statutes and chapter 9 of the City Code:
 - (1) For a first violation, the court shall impose a minimum fine of at least two hundred fifty dollars (\$250.00) per violation for land used for residential purposes and at least five hundred dollars (\$500.00) per violation for land used for non-residential purposes.
 - (2) For a second or subsequent violation under this chapter within two (2) years of the date of the first violation, the court shall impose a minimum fine of at least five hundred dollars (\$500.00) per violation for land used for residential purposes and at least one thousand dollars (\$1,000.00) per violation for land used for non-residential purposes.
- (c) The court may impose additional penalties in conformance with section 1-8 of the City Code.

Section 3. If any section, subsection, sentence, clause, phrase or portion of this ordinance or any part of the code adopted herein is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

Section 4. The City Council finds that it is necessary to protect the health, welfare and safety of the community by prohibiting the use of barbed wire, razor wire, razor ribbon, concertina wire, or similar features in residential land through the city except for livestock control in residential districts that meet the criteria established for rural residential lifestyle.

PASSED AND ADOPTED by the Council of the City of Scottsdale this 25th day of February, 2014.

ATTEST:

CITY OF SCOTTSDALE, an
Arizona municipal corporation

Carolyn Jagger
City Clerk

W. J. "Jim" Lane
Mayor

APPROVED AS TO FORM:



Bruce Washburn, City Attorney
By: Luis E. Santaella, Senior Assistant City Attorney

AMENDMENTS TO
CHAPTER 18, PUBLIC NUISANCE AND PROPERTY MAINTENANCE,
OF THE SCOTTSDALE REVISED CODE

Section 1. Chapter 18 of the Scottsdale Revised Code is hereby amended as follows, with new language shown in shaded format and deleted language in strikethrough format:

ARTICLE I. - GENERAL PROVISIONS

Sec.18-1. - Purpose and scope.

(a) The purposes of this chapter are:

- (1) To promote the health, safety and general welfare of the citizens of the city by protecting neighborhoods against public nuisances, and
- (2) To protect neighborhoods from blight by establishing requirements for maintenance of all building exteriors and land.

(b) Except as otherwise specifically provided in this chapter, this chapter shall apply to all buildings and land within the city.

Sec.18-2. - Definitions.

(a) The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

- (1) *Abandoned or junked vehicle* means a vehicle that is inoperative, stripped, scrapped, discarded, wrecked, on blocks or similar devices, or is without current license plates, or has deflated or missing tire(s).
- (2) *Abate* means correct, including, but not limited to, repair, rehabilitate, demolish or remove.
- (3) *Accessory improvements* means improvements to land other than buildings, including, but not limited to, driveways, parking areas, pools, sidewalks, walkways, bridges, exterior steps, railings, monuments, fences, signs, screening walls and retaining walls.
- (4) *Attractive nuisance* means a condition, instrumentality, machine or other agency, which is dangerous to children ~~or other individuals~~ because of their inability to appreciate peril and which may reasonably be expected to attract them.
- (5) *Blight* means unsightly, unsafe or unsanitary conditions including, but not limited to, the accumulation of litter or debris; buildings, accessory improvements and structures with holes, breaks, rot, crumbling, cracking, peeling, or rusting; landscaped areas that are characterized by bare dirt, dead, damaged or uncontrolled plant growth or lack of maintenance; and any other similar condition of neglect, excessive use, decay, degeneration, disrepair, deterioration or infestation that constitutes a fire hazard or may have an adverse affect upon the health, safety, aesthetic or general welfare of citizens.

- (6) *Building* means any structure or part thereof intended to be or actually used by humans or animals for any purpose, including, but not limited to, living, sleeping, eating, cooking, sanitation, medical service, business, government, worship, education, recreation or storage.
- (7) *Clean fill* means clay, rock, sand or soil which is free of plant growth, debris and litter.
- (8) *Code inspector* means City of Scottsdale employees and supervisors whose job duties include investigation and enforcement of violations of this chapter.
- (9) *Code supervisor* means City of Scottsdale supervisors and directors whose job duties include supervision of code inspectors and investigation and enforcement of violations of this chapter.
- (108) *Debris* means junk, including, but not limited to, lumber, furniture, furniture parts, cabinets, refrigerators, stoves, sinks, abandoned or neglected equipment, abandoned or junked vehicles or parts thereof, or the remains of something of little or no apparent economic value.
- (119) *Designee* means a person appointed in writing by the city manager as authorized to carry out specific actions to enforce this chapter. The writing shall be filed with the city clerk and shall specify the designee's authority.
- (120) *Dust free surface* means an area completely covered by (1) concrete, asphalt, cement or sealed aggregate pavement; (2) three (3) inches deep crushed rock completely contained in a permanent border; or (3) another stabilization material or method approved by the city. Dust free surface does not include areas of grass, lawn, compacted dirt or hard-packed dirt.
- (134) *Exterior building surfaces* means outside walls, roofs, fixtures and attachments to a building or structure, including, but not limited to, doors, windows, gutters, down spouts, lights, antennas, satellite dishes, porches, posts, railings, garages, eaves, trims, patios and chimneys.
- (142) *Garbage* means any discarded or spoiled animal or plant matter resulting from the handling, preparation, cooking, or consumption of food; and any other animal or matter subject to rapid decomposition.
- (153) *Graffiti* means any unauthorized inscription, figure, drawing or other defacement that is written, marked, scratched, drawn, painted or otherwise affixed to any exterior building surface, unscreened area, accessory improvement or vehicle.
- (164) *Grass* means herbage intended to be or actually used for food, fodder or lawn.
- (175) *Infestation* means the presence or apparent presence of insects, rodents, birds, animals or other noxious pests of a kind or in a quantity that may have an adverse effect upon a building or structure or upon the health, safety, aesthetic or general welfare of citizens.
- (186) *Land* means all land in the city and all buildings, structures and accessory improvements located thereon.
- (197) *Landscaped area* means an exterior improvement or change of land through plant growth or natural or artificial topping material such as rocks or stones, or a combination of plant growth and topping material.

- (2048) *Landscape waste* means any dirt, dust, sand, stones, excavation material, leaves, landscape clippings, severed plant growth or any other material resulting from landscape installation or maintenance.
- (2149) *Leaf blower* means any device that generates a stream of air that is designed or used to move landscape waste or litter.
- (229) *Litter* means all solid waste including, but not limited to, ashes, street cleanings, severed plant growth, garbage, dead animals, animal feces, abandoned or junked vehicles or parts thereof, solid commercial and industrial waste, paper, rags, empty barrels, crates, packing cases, boxes, cartons, wood shavings, packing material, wrappings, cigarettes, cardboard, landscape clippings, leaves, metal, mattresses, bedding, crockery, bottles, cans, glass, plaster, plastic, asphalt, tile, rock, bricks, clean fill, fill dirt, excavation material, or other materials tending to create an unsightly condition and having an adverse effect upon the health, safety, aesthetic or general welfare of citizens.
- (234) *Livestock activity areas* means areas devoted to any activity directly related to feeding animals, displaying animals, racing animals, exercising animals, and/or for any other such activity, including, but not limited to, livestock arenas, horse arenas, feed lots, and access.
- (24) *Major Vehicle Repair* means the removal from any vehicle of a major portion thereof including, but not limited to, the differential, transmission, head, engine block, or oil pan.
- (252) *Natural desert* means undisturbed, unimproved land with undisturbed native vegetation.
- (263) *Plant growth* means vegetation, whether living or dead, including, but not limited to, grass, flowers, weeds, vines, bushes, shrubs, cacti or trees.
- (274) *Pool* means a constructed or excavated exterior area designed to contain a regular supply of water, including, but not limited to, a swimming pool, spa, waterfall, pond or other body of water.
- (285) *Public place* means any city-owned street, sidewalk, alley, easement or other public way, and any public park, square, space, land or building.
- (296) *Public roadway* means that part of the street used or intended for use by the general public for motor vehicles.
- (3027) *Regularly used in the commission of a crime* means one or more law enforcement agencies have documented three (3) or more complaints alleging criminal activity in three (3) or fewer consecutive months at the address or location of the building or land.
- (3128) *Residential rental property* means property that is used solely as leased or rented property for residential purposes. If the property is a space rental mobile home park, residential rental property includes the rental space that is leased or rented by the owner of that rental space, but does not include the mobile home or recreational vehicle that serves as the actual dwelling if the dwelling is owned and occupied by the tenant of the rental space and not by the owner of the rental space.
- (3229) *Rural residential lifestyle* means land that is improved with a single family dwelling; zoned R1-190, R1-130, R1-70, R1-43 or R1-35 under the city zoning ordinance, as amended; and meets one or more of the following criteria:

- a. Overlaid by the environmentally sensitive lands overlay zoning district under the city zoning ordinance, as amended;
 - b. Outside of a recorded subdivision plat; and/or
 - c. Accessed solely from an unpaved street, easement or driveway.
- (330) *Slum property* means residential rental property that has deteriorated or is in a state of disrepair and that manifests one or more of the following conditions that are a danger to the health or safety of the public:
- a. Structurally unsound surfaces, roof, walls, doors, floors, stairs, stairwells, porches or railings.
 - b. Lack of potable water, adequate sanitation facilities, adequate water or waste pipe connections.
 - c. Hazardous electrical systems or gas connections.
 - d. Lack of safe, rapid egress.
 - e. Accumulation of human or animal waste, medical or biological waste, gaseous or combustible materials, dangerous or corrosive liquids, flammable or explosive materials or drug paraphernalia.
- (344) *Street* means the full right-of-way used by the general public for road, highway, alley, pedestrian walkway or bikeway purposes, whether or not improved or accepted for maintenance by the city.
- (352) *Structure* means any item constructed or erected, the use of which requires a location on the ground or attached to something having a location on the ground, but not including a vehicle.
- (363) *Unpaved street* means a public or private street that is not paved or treated by the city with dust palliatives.
- (374) *Unscreened* means visible from a place reasonably accessible to the general public or to a person standing on adjacent land.
- (385) *Vacant lot* means land that has been or has not been disturbed and/or was previously developed, and may contain structures but does not contain buildings.
- (396) *Vehicle* means any device in, upon or by which a person or property is or may be transported or drawn on a street, including, but not limited to, an off-road vehicle, an all-terrain vehicle, a dirt bike, a buggy, a trailer, an aircraft of any kind and a device used exclusively on rails or tracks.
- (4037) *Watercraft* means any device specifically designed for use on water, including, but not limited to, a boat, canoe, jet ski or pontoon.
- (4138) *Weed* means any uncultivated plant growth, including, but not limited to, bull thistle, cocklebur, foxtail, horseweed, lambs quarters, London rocket, mallow, milkweed, pigweed, mustards, prickly lettuce, ragweed, Russian thistle, tumbleweed, shepherds purse, sowthistle, white horsenettle, willow weed, and plant growth defined as noxious weeds in state statutes regardless of whether an owner or occupant regards the plant growth as desirable.

Sec.18-3. - Conflicts and interpretation.

- (a) Where a provision of this chapter is in conflict with a provision of any other chapter of the City Code existing on the effective date of this chapter, the provision which establishes the higher standard for the protection of the public health and safety shall prevail.
- ~~(b) Where enforcement provisions of this chapter are in conflict with enforcement provisions of any other chapter of the City Code existing on the effective date of this chapter, the enforcement provisions of this chapter and Chapter 22 of the City Code, as referred to in this chapter, shall prevail.~~
- (eb) Where two (2) or more provisions of this chapter are in conflict, the provision which establishes the higher standard for the protection of the public health and safety shall prevail.
- ~~(d) This chapter is not intended to repeal, annul, or interfere with:~~
 - ~~(1) Existing provisions of other laws or ordinances, or~~
 - ~~(2) Restrictions placed upon land by covenant, deed or other private agreement.~~
- (ec) The city manager or designee may render interpretations of this chapter and adopt regulations to clarify its provisions. Each interpretation shall be posted on the city's web site.

Sec.18-4. - Severability.

The provisions of this chapter are severable. If any section, subsection, sentence or phrase of this chapter is declared invalid, that declaration shall not affect the remaining provisions of this chapter.

ARTICLE II. - PUBLIC NUISANCES

Sec.18-5. - Public nuisances.

Except as otherwise permitted by law, each of the following conditions is a public nuisance on any land or in any building in the city and is unlawful, when the condition is or may be (i) discomforting or offensive to a reasonable person of normal sensitivity, or (ii) detrimental to the life, health or safety of individuals or the public:

- (1) Animal manure that is neither used for fertilizing lawns or gardens nor securely protected from insects and the elements.
- (2) Putrid, unsound or unwholesome bones, meat, hides, skins, or other animal parts; dead animals, fish or fowl; butcher's trimmings and offal; waste vegetation; liquid waste; animal matter, garbage, human or animal excreta, sewage and other similar offensive substances.
- (3) A dumping ground or other land or building for depositing litter or debris, or wrecking, disassembling, rebuilding, repair, storage or accumulation of three (3) or more vehicles, or of machinery, or parts of vehicles or machinery.
- (4) Noxious exhalations and other airborne irritations, including, but not limited to, smoke, soot, dust, fumes or other gases, offensive odors, ~~mold~~ or other annoyances.

- (5) Burning litter, debris, sawdust or other material resulting in smoke, gases, ashes, soot, cinders, sawdust or other material being transported to or deposited on land or buildings.
- (6) Disposing of litter, debris, sawdust or other material in a manner that results in its unauthorized deposit on land or buildings.
- ~~(7) Driving or moving any vehicle in the city, if the tires of which carry or deposit on any street, alley or other public place or adjacent land, any mud, sticky substance, litter, debris or matter of any kind.~~
- ~~(8) A vehicle that is constructed, loaded or driven so that its contents, litter or debris is blown or deposited on any street, alley or other public place or adjacent land.~~
- ~~(79)~~ An unsecured or abandoned excavation, pit, well, other hole or pool.
- ~~(840)~~ A privy, vault, cesspool, sump, pit, pool, accumulated water or similar condition that is foul, malodorous, or subject to infestation, pollution or stagnation.
- ~~(944)~~ An unsecured building that is vacant, abandoned, dilapidated, structurally unsound, partially destroyed or left partially constructed under a lapsed building permit for more than forty-eight (48) consecutive hours.
- ~~(102)~~ An abandoned, unattended or discarded icebox, refrigerator or other container that has an attached airtight door or lid, snaplock or other locking device that may not be released from the inside.
- ~~(113)~~ Plant growth or any other condition, sign, structure, vehicle or watercraft that obstructs or interferes with or renders dangerous the use or passage of any public place, stream or water course.
- ~~(124)~~ Plant growth or any other condition, sign, structure, vehicle or watercraft that obstructs or interferes with sight distance or the visibility of any traffic control device or sign.
- ~~(135)~~ Plant growth or any other condition that constitutes a fire hazard or encourages infestation or noxious pests.
- ~~(146)~~ Infestation.
- ~~(157)~~ Slum property.
- ~~(168)~~ A building or land regularly used in the commission of a crime.
- ~~(49) A building or land where persons gather to engage in unlawful conduct.~~
- ~~(1729)~~ Blight.
- ~~(1824)~~ Attractive nuisances.
- ~~(1922)~~ Graffiti.

ARTICLE III. - PROPERTY MAINTENANCE

Sec.18-6. - Litter control.

- (a) No person shall throw, deposit or dump any litter or debris on any land.

- (b) A person may store litter and debris in a secure receptacle with a tight lid for collection if the receptacle is maintained so that litter and debris are prevented from being blown or deposited on any public place or adjacent land.
- (c) Only as permitted by law, a person may store litter and debris within any building.
- ~~(d) City Code section 18-9, as amended, shall be enforced under this section as if fully rewritten here.~~

Sec.18-7. - Vehicles and watercraft.

- (a) An owner and/or occupant of land where an abandoned or junked vehicle, or a vehicle or watercraft being ~~repaired or restored or undergoing major repair~~, is located, shall store the vehicle and watercraft in an enclosed area so that the vehicle and watercraft are not visible from any point outside the land. A vehicle or watercraft cover is not an enclosed area.
- (b) Except as otherwise permitted by law, an owner and/or occupant of land where a vehicle or watercraft is located shall park or store the vehicle and watercraft only on a dust free surface.
- (c) Except as otherwise permitted by law, no person shall display a vehicle or watercraft for sale on land.
- (d) No person shall park a vehicle or watercraft on any street or public place for the principal purpose of:
 - (1) Displaying advertising or commercial exhibits, or
 - (2) Washing, greasing or repairing the vehicle or watercraft, except repairs necessitated by an emergency.

Sec.18-8. - Buildings, structures and accessory improvements.

- (a) The owner and/or occupant of a building shall maintain all exterior building surfaces to be free of blight and graffiti.
- (b) The owner and/or occupant of land where a structure and/or an accessory improvement is located shall maintain the accessory improvement free of blight and graffiti.

Sec.18-9. - Land.

- (a) The owner and/or occupant of land shall maintain the land free of:
 - (1) Blight, garbage, litter or debris;
 - (2) Noxious exhalations and other airborne irritations, including, but not limited to, smoke, soot, dust, fumes or other gases, offensive odors, ~~mold~~ or other annoyances;
 - (3) Plant growth, infestation and any other condition that encourages infestation or otherwise adversely affects the aesthetic or general welfare of individuals or the public.
 - (4) Grass higher than six (6) inches, poison oak, poison ivy, and weeds; or plant growth that is dead, dry, uncultivated or overgrown.
- (b) In addition to the requirements of subsection 18-9(a) above, the owner and/or occupant of land shall also maintain the following areas free of grass higher than six (6) inches, poison

oak, poison ivy, weeds, blight, garbage, litter and debris: adjacent rights-of-way from the back of the curb or edge of paving in the street, through the owner's and/or occupant's land, to the centerline of any adjacent alley or right-of-way.

- (c) In addition to the requirements of subsection 18-9(b) above, the owner and/or occupant of a business shall maintain the parking lot and landscaped areas adjacent to or surrounding the business free of grass higher than six (6) inches, weeds, garbage, litter and debris.
- (d) The owner and/or occupant of land that has been subject to dumping shall take measures to secure the land to prevent future dumping. The measures may include erecting a fence, constructing a ditch and berm, or placing four (4) foot high posts at four (4) foot intervals. Any measures under this subsection shall be taken only in conformance with required permits.
- (e) Except as otherwise permitted by law and by the landowner in writing, no person shall place clean fill or fill dirt on land of another.
- (f) The owner and/or occupant of land where a pool is located shall maintain the pool to avoid health or safety hazards, infestation, pollution, stagnation and blight.
- (g) No person shall attach any sign to any public utility structure, traffic control device, streetlight standard, or similar structure in the street, right-of-way or public place.
- (h) Except as otherwise permitted by law, no person shall place any structure or sign in the street, right-of-way or public place.

Sec.18-9.1. - Blowing landscape waste.

No person shall use a leaf blower to blow landscape waste into the public roadway.

Sec.18-9.2. - Treatment of vacant lots.

The owner of a vacant lot that has been subject to use (operating and/or parking) by any motor vehicle, motorcycle, mini-bike, trailbike, dune buggy, motor scooter, jeep or other form of transportation or recreational vehicle propelled by an internal combustion engine, shall take measures to prevent future use (operating and/or parking) on the vacant lot. The measures may include erecting a fence, constructing a ditch and berm, and/or placing four (4) foot high posts at four (4) foot intervals. Any measures under this section shall be taken only in conformance with required permits.

Sec.18-10. - Preservation of natural desert.

- (a) The purpose of this section is to recognize that preservation of the unique natural desert in limited areas of the city promotes the health, safety, aesthetic and general welfare of the citizens of the city.
- (b) Except for a condition that is a public nuisance as set forth in section 18-5, the property maintenance standards that require the owner and/or occupant of land to maintain the land free of the plant growth set forth in subsections 18-9(a)(4) and (b) shall not apply to:
 - (1) Natural desert within public places.
 - (2) Natural desert within natural area open space as established in conformance with the city zoning ordinance.

- (3) Natural desert areas within state-owned land.

Sec.18-11. - Preservation of rural residential lifestyle.

- (a) The purpose of this section is to recognize that preservation of the western rural residential lifestyle in limited areas of the city promotes the health, safety, aesthetic and general welfare of the citizens of the city.
- (b) The property maintenance standards that require the owner and/or occupant of land to park or store a vehicle or watercraft only on a dust free surface set forth in subsection 18-7(b) shall not apply to rural residential lifestyle land, except:
 - (1) A condition that is a public nuisance as set forth in section 18-5 is prohibited, or
 - (2) Surfaces for ingress, egress, parking and maneuvering that are greater than three thousand (3,000) square feet, exclusive of livestock activity areas, must be dust free surfaces.
- (c) The requirements in subsection (b) above for ingress, egress, parking and maneuvering areas shall not apply to a residentially-zoned property connecting to an unpaved street as its sole access.
- (d) The effective date for surfacing ingress, egress, parking and maneuvering areas greater than three thousand (3,000) square feet is October 1, 2009.

ARTICLE IV. ~ ADDITIONAL VIOLATIONS.

Sec.18-12. – Additional Violations.

- (a) No person shall create, maintain or permit a public nuisance as defined in section 18-5 above.
- (b) No person shall create, maintain, permit or assist any violation of this chapter, or fail to perform any act or duty required by this chapter.
- (c) No person shall interfere or attempt to interfere with a city agent investigating or abating a violation of this chapter.
- (d) No person shall knowingly make a false statement or knowingly mislead a city agent investigating or abating a violation of this chapter.
- ~~(e) A violation of this chapter is in addition to any other violation of the City Code. Enforcement of a violation of this chapter in no way limits enforcement of any other violation of the City Code or of state statutes.~~
- ~~(f) Each day any violation of this chapter continues shall constitute a separate offense.~~

Sec.18-13. - Each Day Separate Violation.

Each day any violation of any provision of this chapter or the failure to perform any act or duty required by this chapter continues shall constitute a separate offense.

Sec.18-14. - Barbed wire, razor wire, razor ribbon, concertina wire, or similar features prohibited; exceptions.

(a) The use as a fence or wall, either in whole or part, of barbed wire, razor wire, razor ribbon, concertina wire, or similar features is prohibited on all residential land throughout the city.

(b) Notwithstanding the provisions of subsection A of this section and unless otherwise prohibited by law, barbed wire used to control livestock that complies with Arizona Game and Fish Department guidelines for Wildlife Compatible Fencing that does not exceed City of Scottsdale fencing height standards is permitted within any residential district that meets the criteria established for rural residential lifestyle.

(c) For the purposes of this section, livestock has the same meaning as defined in A.R.S. Section 3-1201.

ARTICLE V. - ENFORCEMENT

~~DIVISION 1. - GENERALLY~~

Sec.18-15. - Authority.

(a) The city manager or designee, city attorney, code inspectors and ~~certified~~ Scottsdale police officers shall enforce this chapter. ~~The city manager may delegate the duties to enforce this chapter to subordinate staff.~~

(b) The city manager or designee shall designate slum property.

Sec.18-16. - Presumptions.

(a) The owner of land, as recorded in the Maricopa County Recorder's Office, is presumed to have control over the land and buildings and accessory improvements on the land. If more than one (1) person is recorded as the owner of land, all persons on record are presumed to have joint and several control over the land and buildings and accessory improvements on the land. The occupant residing or operating a business on land or in a building is presumed to have control over the building and land on which it is located. These presumptions shall not prevent the enforcement of this chapter against persons other than record owners.

(b) Under the state statutes regarding criminal nuisance, the owner, leaseholder or person with legal privilege to control land, shall be deemed to have notice of the criminal nuisance as set forth in the state statutes.

(c) A sign or structure is presumed to be owned by or under the control of:

- (1) The person whose name, address, e-mail address or phone number appears on it, and/or
- (2) The person whose business, product or service appears on it,
- (3) The person whose business benefits by it,
- (4) The person who owns or controls the land upon which the sign or structure is placed, and/or
- (5) The person who installed or placed it.

- (c) All presumptions are rebuttable.

Sec. 18-17. - Enforcement options.

(a) The city, its officers and employees ~~manager or designee or certified police officers~~ may enforce this chapter by one or more lawful means, including but not limited to, voluntary compliance, administrative and civil consent orders, ~~administrative citations~~, civil enforcement, including injunctive action, criminal enforcement, abatement by administrative procedure, emergency abatement, abatement regarding criminal activity, and designation of slum property. The city may also require restitution. In addition, the city may immediately remove any structure or sign from any street or public place. One type of enforcement neither limits nor precludes the city from pursuing any other type of enforcement. ~~The enforcement means chosen shall be guided by the Enforcement Policy Manual.~~

(b) A violation of this chapter is in addition to any other violation of the city code. Enforcement of a violation of this chapter in no way limits enforcement of any other violation of the city code or of state statutes.

Sec. 18-18. - Misdemeanor Violations.

Notwithstanding the provisions of section 18-17, a violation of this chapter may only be deemed a class one misdemeanor if the violation is:

- (a) A public nuisance as defined in section 18-5, or
- (b) The second or subsequent violation of any other section within two years of the first violation.

~~DIVISION 2. - INSPECTIONS~~

Sec. 18-19. - Inspections.

- (a) The city manager or designee, code inspectors or ~~certified~~ Scottsdale police officers may inspect buildings or land to determine compliance with this chapter.
- (b) Building exteriors and unscreened land may be inspected at any time with or without the presence of the owner or occupant in conformance with legal requirements governing administrative inspections of buildings and land.
- (c) Except in a situation presenting an imminent hazard to life, health or public safety, building interiors and screened land shall be inspected during the normal business hours of the city, unless otherwise arranged, upon:
 - (1) The owner's or occupant's consent, or
 - (2) Any administrative or court order.

Sec. 18-20. - Reserved.

~~DIVISION 3. VOLUNTARY COMPLIANCE~~

Sec. 18-21. - Voluntary compliance.

The city manager or designee, ~~code inspectors~~ or ~~certified Scottsdale police officers~~ may seek voluntary compliance with this chapter through warnings, notices, compliance orders, or other means to achieve efficient and effective compliance.

Sec. 18-22—18-29. - Reserved.

~~DIVISION 4. CONSENT ORDERS~~

Sec. 18-30. - Administrative consent orders.

The city may enter into a written administrative consent order, signed by the city manager or ~~authorized designee a code supervisor~~, with a person accused of violating this chapter. The administrative consent order may be enforced as a contract is enforced or by any other lawful means.

~~Sec. 18-31. - Civil consent orders.~~

~~The city may enter into a written civil consent order, signed by the city manager or authorized designee, with a person accused of violating this chapter. The civil consent order may be filed in city court or superior court, with the permission or approval of the appropriate judge or magistrate, and, where applicable, recorded against the land which is the subject of the consent order.~~

Sec. 18-31—18-39. - Reserved.

~~DIVISION 5. ADMINISTRATIVE CITATIONS~~

~~Sec. 18-40. - Administrative citations.~~

~~(a) The city manager or designee, or a certified police officer, may issue an administrative citation to enforce this chapter.~~

~~(b) The administrative citation shall be issued and enforced as set forth in Chapter 22~~

Sec. 18-40—18-50. - Reserved.

~~DIVISION 6. COURT ENFORCEMENT~~

~~DIVISION 6A. CIVIL COURT ENFORCEMENT~~

Sec. 18-50. - Civil complaints—Commencement.

- (a) ~~To begin a civil action, the city manager or designee, code inspectors, the city attorney and Scottsdale police officers may issue a bring civil complaints under this chapter.~~
- (b) The complaint shall include a written description and statutory designation of the violation(s).
- (c) The city shall attempt to hand deliver the civil citation to the person accused of violating this Code. If the city is unable to hand deliver the civil citation, the city may serve it by certified or registered mail, return receipt requested, or by any means allowed by the Arizona Rules of Civil Procedure. If the city sends a citation via certified or registered mail, an additional copy must also be sent by regular mail.
- (d) The citation is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States Mail.

Sec. 18-51. - Civil complaints—Court appearance or failure to appear.

- (a) On or before the date specified in the complaint, the defendant shall appear in city court in person or through an attorney. The defendant shall admit or deny the allegations in the complaint. If the defendant admits the allegations, the court shall enter judgement against the defendant and impose the civil penalties set forth in section 18-65 below, and require restitution. If the defendant denies the allegations, the court shall set the matter for hearing.
- (b) If a defendant served with a complaint fails to appear on or before the date specified in the complaint, or fails to appear at the hearing set by the court, the allegations in the complaint are deemed admitted. The court shall enter judgement against the defendant and impose the civil penalties set forth in section 18-65 below, and require restitution.

Sec. 18-52—18-54. - Reserved.

~~DIVISION 6B. CRIMINAL COURT ENFORCEMENT~~

Sec. 18-55. - Criminal citations and complaints—Commencement Authority to issue criminal complaints:

A Scottsdale police officer or the city attorney may bring criminal complaints under this chapter:

~~(a) To begin a criminal action:~~

- ~~(1) A certified police officer may issue a criminal citation under this chapter, or~~

~~(2) The city attorney may issue a criminal complaint under this chapter.~~

~~(b) The citation shall:~~

~~(1) Notify the defendant with a written description or statutory designation of the violation;~~

~~(2) Direct the defendant to appear in city court on the date specified in the citation; and~~

~~(3) Notify the defendant that if the defendant fails to appear on or before the date specified in the citation, the city court may:~~

~~a. Issue a warrant for the defendant's arrest; or~~

~~b. Try the defendant in the defendant's absence and impose the criminal penalties set forth in section 18-66 below, or take any other action in conformance with the Arizona Rules of Criminal Procedure, and require restitution, if any.~~

~~(c) The citation shall be served by any means allowed by the Arizona Rules of Criminal Procedure. The citation is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States mail.~~

~~(d) The complaint shall include a written description or statutory designation of the violation.~~

~~(e) The complaint shall be served by any of the means allowed by the Arizona Rules of Criminal Procedure. The complaint is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States mail.~~

~~Sec. 18-56. Criminal citations and complaints—Court appearance or failure to appear.~~

~~(a) On or before the date specified in the citation or complaint, the defendant shall appear in city court in person or through an attorney. The defendant shall admit or deny the allegations in the citation or complaint. If the defendant admits the allegations, the court shall enter judgement against the defendant and impose the criminal penalties set forth in section 18-66 below, and require restitution, where applicable. If the defendant denies the allegations, the court shall set the matter for hearing.~~

~~(b) If a defendant served with a citation or complaint fails to appear on or before the date specified in the citation or complaint, or fails to appear at the hearing set by the court, the court:~~

~~(1) Shall issue a warrant for the defendant's arrest, or~~

~~(2) May try the defendant in the defendant's absence and impose the criminal penalties set forth in section 18-66 below, or take any other action in conformance with the Arizona Rules of Criminal Procedure, and require restitution, if any.~~

~~Sec. 18-56—18-59. - Reserved.~~

~~DIVISION 6C. CITY COURT~~

~~Sec. 18-60. - Jurisdiction and procedure of city court.~~

~~(a) The city court has jurisdiction over all civil complaints, city petitions for abatements including emergency abatements and all criminal citations to enforce this chapter. A judge or court hearing officer may adjudicate civil complaints and city petitions for abatement.~~

- (b) The city court shall follow the Arizona Rules of Court for Civil Traffic Violation Cases for civil complaints to enforce this chapter, except as modified or where inconsistent with this chapter, local rules of the city court, or rules of the Arizona Supreme Court.
- (c) The city court shall follow the Arizona Rules of Criminal Procedure for criminal actions to enforce this chapter.
- (d) The city court may order abatements to enforce this chapter either upon petition from the city attorney or incidental to a hearing on a civil or criminal violation of this chapter when requested by the city.

Sec. 18-61. - Procedure for abatement petitions filed in city court.

- (a) After notice to the owner and any responsible party, the judge or hearing officer shall conduct a hearing. Both the city and defendant(s) shall have an opportunity to be heard and present evidence. The rules of evidence shall not apply to these hearings but the judge or hearing officer may make rulings on the conduct of these hearings to ensure that they proceed in an orderly and efficient manner. The judge or hearing officer shall determine whether a violation of this chapter exists and order an abatement of the violation as appropriate in accordance with subsection (b). The court's determination shall be based on a preponderance of the evidence. If a defendant fails to appear for a hearing, the court shall hold the hearing in the defendant's absence. If the city fails to appear for a hearing, the court shall dismiss the petition without prejudice.
- (b) Upon finding that abatement is appropriate, the court may order demolition, board-up, cleanup, inspection or any other action the court deems reasonably necessary to abate the violation.
- (c) Demolition of a structure shall only be ordered following issuance of notice as required by subsection (a) to the owner and any responsible parties with an interest in the property that is recorded in the office of the county recorder and in accordance with section 18-111 of this chapter. Notice to the interested parties may be recorded against the property.
- (d) The reasonable costs of any abatement permitted by the court's order shall be the responsibility of the owner and may be assessed and recorded as provided in sections 18-74 and 18-75
- (e) The notice required in subsection (a) shall generally comply with rule 4 of the Arizona Rules of Civil Procedure, except that upon petition by the city attorney the court may, upon a finding of good cause, deem the notice requirement satisfied by notice being posted in a conspicuous location on the subject property.
- (f) The provisions of article VI of this chapter do not apply to abatements brought under this section.

Sec. 18-62. Procedure for emergency abatement petitions filed in city court.

- (a) If a violation of this chapter presents an imminent hazard to life, health or public safety, the court may immediately consider and grant emergency abatement orders brought on behalf of the city by the city attorney.

(b) Notice of the abatement petition and order shall be posted on the property in accordance with section 18-80(b)(3).

(c) The provisions of article VI of this chapter and section 18-80(e) do not apply to abatements brought under this section.

Sec. 18-63, 18-64. - Reserved.

~~DIVISION 6D. - PENALTIES AND RESTITUTION~~

Sec. 18-65. - Civil penalties.

- (a) If the violation concerns land used for residential purposes, the fine shall be as follows: The fine for a defendant's first citation under this chapter shall be two hundred fifty dollars (\$250.00) per violation. The fine for a defendant's second violation under this chapter within two (2) years of the date of the first violation shall be five hundred dollars (\$500.00) per violation. The fine for a defendant's third or subsequent violation under this chapter within two (2) years of the date of the first violation shall be seven hundred fifty dollars (\$750.00) per violation. The court shall also impose all other fees and surcharges applicable under state statutes and chapter 9 of the City Code.
- (b) If the violation concerns land used for non-residential purposes, the fine shall be as follows: The fine for a defendant's first citation under this chapter shall be ~~five hundred dollars (\$500.00)~~ seven hundred fifty dollars (\$750.00) per violation. The fine for a defendant's second violation under this chapter within two (2) years of the date of the first violation shall be one thousand five hundred dollars (\$1,500.00) per violation. The fine for a defendant's third or subsequent violation under this chapter within two (2) years of the date of the first violation shall be two thousand dollars (\$2,000.00) per violation. The court shall also impose all other fees and surcharges applicable under state statutes and chapter 9 of the City Code.
- (c) However, on proper evidence that the violation(s) has been corrected and the defendant is in compliance with this chapter at the time of the hearing, in addition to all other fees and surcharges applicable under state statutes and chapter 9 of the City Code:
- (1) For a first violation, the court shall impose a minimum fine of at least one hundred dollars (\$100.00) per violation for land used for residential purposes and at least two hundred fifty dollars (\$250.00) per violation for land used for non-residential purposes.
 - (2) For a second or subsequent violation under this chapter within two (2) years after the date of the first violation, the court shall impose a minimum fine of at least two hundred dollars (\$200.00) per violation for land used for residential purposes and at least five hundred dollars (\$500.00) per violation for land used for non-residential purposes.
- (d) ~~Upon a finding that a defendant is responsible under the state statutes set forth at A.R.S. §§ 12-991—12-999 regarding buildings and land used for criminal activity, as amended, the court shall grant a permanent injunction and may grant additional relief in conformance with these state statutes.~~

Sec. 18-66. - Criminal penalties.

- (a) A criminal violation of this chapter is a class ~~one~~ 4 misdemeanor. For a first conviction under this chapter, for land used for residential purposes, the court shall impose a criminal fine of at least five hundred dollars (\$500.00) per violation. For a first conviction under this chapter, for land used for non-residential purposes, the court shall impose a criminal fine of at least one thousand dollars (\$1,000.00) per violation. In addition, the court shall impose all other fees and surcharges applicable under state statutes and chapter 9 of the City Code.
- (b) However, on proper evidence that the violation(s) has been corrected and the defendant is in compliance with this chapter at the time of the hearing, in addition to all other fees and surcharges applicable under state statutes and chapter 9 of the City Code:
 - (1) For a first violation, the court shall impose a minimum fine of at least two hundred fifty dollars (\$250.00) per violation for land used for residential purposes and at least five hundred dollars (\$500.00) per violation for land used for non-residential purposes.
 - (2) For a second or subsequent violation under this chapter within two (2) years of the date of the first violation, the court shall impose a minimum fine of at least five hundred dollars (\$500.00) per violation for land used for residential purposes and at least one thousand dollars (\$1,000.00) per violation for land used for non-residential purposes.
- (c) The court may impose additional penalties in conformance with section 1-8 of the City Code.

Sec. 18-67. - Restitution.

In addition to the penalties of sections 18-65 and 18-66, the court shall impose restitution as part of its sentence, to compensate the city for its costs to enforce this chapter and bring a building or land into compliance with this chapter. Restitution shall include all costs of abatement, including inspection fees and prosecution of the case.

Sec. 18-68, 18-69. - Reserved.

~~DIVISION 7. ABATEMENT, DESIGNATION OF SLUM PROPERTY AND DECLARATION OF STRUCTURE UNFIT FOR HUMAN HABITATION~~

~~DIVISION 7A. ABATEMENT BY ADMINISTRATIVE PROCEDURE~~

Sec. 18-70. - Notice to abate.

- (a) If, after an inspection, the city finds one (1) or more violations of this chapter, the city may require correction of the violation(s). If the city requires correction, the city ~~shall~~ ^{may} issue a notice to abate to the owner, the owner's authorized agent or the owner's statutory agent, and the occupant or lessee.
- (b) The notice to abate shall be in writing and shall set forth:
 - (1) The identification of the land where the violation is located, by legal description, including the street address, if known, or by book, map and parcel number, if the street address is unknown.

- (2) A statement of the violation(s) in sufficient detail to allow a reasonable person to identify and correct the violation(s).
- (3) The date by which the owner, the owner's authorized agent, the owner's statutory agent, the occupant or lessee shall correct the violation, which date shall not be less than thirty (30) days from service of the notice.
- (4) The name and phone number of the inspector who sent the notice.
- (5) The estimated cost of abatement to the city.
- (6) If the violation(s) is not corrected by the date specified for abatement, the city may abate the violation(s), assess the owner, occupant and/or the lessee the cost of abatement, and record a lien on the land for the assessment.
- (7) The appeal procedures, ~~if any~~.

Sec. 18-71. - Service of notice to abate.

The A notice to abate shall be served by any of the following methods:

- (1) By hand delivering a copy of the notice to abate to the owner, the owner's authorized agent or the owner's statutory agent, and the occupant or lessee.
- (2) By mailing a copy of the notice to abate, by certified mail, to the owner, the owner's authorized agent or the owner's statutory agent, and the occupant or lessee at the last known address and at the address to which the tax bill for the land was last mailed.
- (3) The notice to abate is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States mail.

Sec. 18-72. - Effect of notice to abate.

- (a) A notice to abate is effective upon any person served in conformance with section 18-71 or section 18-80 and any person with actual notice.
- (b) A notice to abate runs with the land.
- (c) The city may record a notice to abate in the Maricopa County Recorder's Office.

Sec. 18-73. - City may abate.

If the owner, occupant or lessee subject to the notice to abate fails to correct the violation(s), the city may:

- (1) Abate the violation(s),
- (2) Assess the owner, occupant and/or the lessee the cost of abatement, and
- (3) Record a lien on the land for the assessment.

Sec. 18-74. - City assessment for abatement.

- (a) Following abatement, the city shall prepare a statement of the cost of abating the violation of this chapter, plus five (5) percent incidental cost of abating the violation.

- (b) The statement shall be mailed to the owner, the owner's statutory agent, the occupant and lessee at the address used to serve the notice to abate.
- (c) The statement shall set forth:
 - (1) The statement of cost is an assessment upon the land from which the city abated the violation.
 - (2) The payment of the statement of cost shall be made by the date specified in the statement of cost.
 - (3) If payment is not made by the date specified in the statement of cost, the city shall place a lien on the land in the amount of the statement.
 - (4) The appeal procedures, if any.

Sec. 18-75. - Assessment lien.

- (a) The city's statement of cost under section 18-74 above shall be:
 - (1) An assessment on the land from which the city abated the violation(s), and
 - (2) Collected at the same time and in the same manner as other city assessments are collected.
- (b) The city shall record the assessment in the Maricopa County Recorder's Office. From the date of its recording, the assessment shall be a lien on the land.
- (c) The lien shall be inferior only to general tax liens.
- (d) After recording the lien, the city may institute an action to enforce the lien in the superior court for Maricopa County. The recorded assessment is prima facie evidence of the truth of all matters recited in the assessment and the regularity of all proceedings before the recordation. Upon judgement of foreclosure and order of sale, the city shall sell the land to satisfy the lien.
- (e) A prior assessment under this section is not a bar to a later assessment. Any number of liens on the same land may be enforced in the same action.
- (f) Failure to enforce the lien shall not affect its validity.

Sec. 18-76—18-79. - Reserved.

~~DIVISION 7B. - EMERGENCY ABATEMENT~~

Sec. 18-80. - Emergency abatement.

- (a) If a violation of this chapter presents an imminent hazard to life, health or public safety, the city may notify the owner, the owner's authorized agent, the owner's statutory agent, occupant or person responsible for the violation to correct the violation immediately or the city may abate the violation.
- (b) A notice for emergency abatement may be written, oral or electronic. A written notice shall be served by any of the following methods:

- (1) By hand delivering a copy of the notice to the owner, the owner's authorized agent, the owner's statutory agent, occupant, lessee and/or person responsible for the violation, or
 - (2) By mailing a copy of the notice to the owner, the owner's authorized agent, the owner's statutory agent, occupant, lessee and/or person responsible for the violation at the last known address, or
 - (3) By prominently posting a copy of the notice on the building, accessory improvement, land or vehicle in violation.
- (c) Written notice is deemed served on the date it is hand delivered, or if mailed, on the date it is deposited in the United States mail, or the date it is posted.
 - (d) Whether or not notice is served, the city may abate the violation.
 - (e) Upon request, the owner, the owner's authorized agent, the owner's statutory agent, occupant, lessee or person responsible for a violation that presents an imminent hazard to life, health or public safety, shall be granted a hearing before ~~the building advisory board of appeals~~ an administrative hearing officer appointed pursuant to article VI of this chapter, but the appeal shall not stay the city's abatement of the violation.
 - (f) The effect of a notice for emergency abatement under this section shall be as set forth for a notice of abate in section 18-72 above.
 - (g) The city may assess the owner, occupant or person responsible for a violation for the cost of any emergency abatement by any means authorized by law.

Sec. 18-81—18-89. - Reserved.

~~DIVISION 7C. ABATEMENT REGARDING CRIMINAL ACTIVITY~~

~~Sec. 18-90. Purpose and reference.~~

~~The purpose of this division is to codify in the City Code the provisions of the state statutes set forth at A.R.S. §§ 12-991—12-999 regarding buildings and land used for criminal activity, as amended. In this division only, references to the state statutes mean A.R.S. §§ 12-991—12-999, as amended.~~

Sec. 18-91. - Notice to abate, abatement regarding criminal activity.

- (a) If the city finds that a building or land is regularly used in the commission of a crime, the city shall issue a notice to abate to the owner, the owner's managing agent, the occupant and any other person responsible for the use of the building or land for criminal activity.
- (b) The notice to abate shall be in substantial conformance with the state statutes. The notice to abate may contain the date by which the owner, the owner's managing agent, the occupant, and other person responsible for the use of the building or land for criminal activity, shall correct the violation, which date shall not be less than ten (10) days from the service of the notice.
- (c) The service of the notice to abate shall be in conformance with the state statutes.

- (d) The notice to abate is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States mail.

Sec. 18-92. - City may abate or bring action; abatement regarding criminal activity.

- (a) If the owner, the owner's managing agent or any other person responsible for the use of the building or land for criminal activity fails to correct the nuisance, the city may:
 - (1) Abate the use of the building or land for criminal activity.
 - (2) Bring an action in superior court to abate the use of the building or land for criminal activity.
- (b) If the court enters a temporary restraining order, the city shall serve upon the defendant(s), any applicable statutory agent, and any legal occupant the city believes may claim an interest in the building or land:
 - (1) Notice of the entry of the temporary restraining order,
 - (2) Copies of the temporary restraining order and the complaint, and
 - (3) Notice of the possibility for a hearing, which shall be in substantial conformance with the state statutes.
- (c) The service of the documents set forth in subsection 18-92(b) above shall be in conformance with state statutes.

Sec. 18-93. - City recordation of action.

- (a) If the city brings an action to abate the use of a building or land for criminal activity, the city shall file a notice of the action in the Maricopa County Recorder's Office.
- (b) The notice shall be in conformance with state statutes.

Sec. 18-94. - Assessment for abatement regarding criminal activity.

- (a) The court may assess the owner for the cost of abating the nuisance.
- (b) The city shall record the assessment in the Maricopa County Recorder's Office. From the date of its recording, the assessment shall be a lien on the land.
- (c) The lien shall be inferior only to general tax liens, child support liens, restitution liens and prior recorded mortgages.
- (d) The city may enforce the lien as set forth in subsections (d), (e) and (f) of section 18-75

Sec. 18-95—18-99. - Reserved.

~~DIVISION 7D. DESIGNATION OF SLUM PROPERTY~~

Sec. 18-100. - Notice of designation of slum property.

- (a) If, after an inspection, the city finds that residential rental property meets the definition of slum property in this chapter, the city manager or designee may designate the property a slum property. The city shall notify the owner or the owner's statutory agent of the designation.
- (b) The notice of designation of slum property shall be in writing and shall set forth:
 - (1) The identification of the land where the violation is located, by the street address, if known, or by book, map and parcel number, if the street address is unknown.
 - (2) A statement of the violation(s) in sufficient detail to allow a reasonable person to identify and correct the violation(s).
 - (3) Except for an imminent hazard to life, health or public safety, requiring emergency abatement, the owner has thirty (30) days from service of the notice of designation of slum property to correct the violation.
 - (4) The name and phone number of the inspector who sent the notice.
 - (5) The residential rental property is subject to state statutes, including appointment of a temporary receiver, annual inspections and payment of inspection costs and penalties.
 - (6) The appeal procedures.
- (c) The failure to timely appeal the designation of slum property as slum property shall be deemed an admission that the property is slum property.
- (d) If the violation(s) in the notice of designation of slum property is corrected within thirty (30) days from service of the notice, the city shall withdraw the designation of slum property. If the violation(s) in the notice of designation of slum property is not corrected within the thirty (30) days, the city may then record a notice of designation of slum property in the Maricopa County Recorder's Office.

Sec. 18-101. - Service of notice to designate slum property.

- (a) The notice to designate slum property shall be served by any of the following methods:
 - (1) By hand delivering a copy of the notice to designate slum property to the owner.
 - (2) By mailing a copy of the notice to designate slum property to the owner at the last known address or at the address to which the tax bill for the land was last mailed.
 - (3) By mailing a copy of the notice to designate slum property to the agent registered with the Maricopa County Assessor's Office.
- (b) The notice to designate slum property is deemed served on the date it is hand delivered or, if mailed, on the date it is deposited in the United States mail.

~~DIVISION 7E. DECLARATION OF STRUCTURE UNFIT FOR HUMAN HABITATION~~

Sec. 18-102. - Declaration of structure unfit for human habitation.

If a structure presents an imminent hazard to life, health or public safety, the city may declare the structure unfit for human habitation, and order it to be vacated.

Sec. 18-103. - Reserved.

ARTICLE VI. - APPEALS

Sec. 18-104. - Administrative hearing officer—Authority and filing.

- (a) The administrative hearing officer shall hear and decide:
 - (1) Appeals to an interpretation of this chapter by the city manager or designee and posted on the city's web site.
 - (2) Appeals to a notice of an administrative abatement, a notice to designate slum property, a notice to vacate or an assessment.
- (b) A request for a time extension or an appeal shall be in writing and shall be filed with the city clerk within ten (10) days of the date of, as applicable:
 - (1) The interpretation's posting on the city's web site, or
 - (2) The notice to abate, the notice to designate slum property, the notice to vacate or the assessment.
- (c) If a person fails to request a time extension or appeal within ten (10) days, the failure constitutes:
 - (1) A waiver of the right to a hearing, and
 - (2) An admission of the validity of the notice or assessment.
- (d) The request for a time extension shall specify what time extension is necessary and reasonable.
- (e) The appeal shall specify why:
 - (1) The land or building subject to the notice is not in violation of this chapter;
 - (2) The interpretation is incorrect; or
 - (3) The assessment is excessive.
- (f) A fee of twenty-five dollars (\$25.00) shall accompany the request or appeal. In case of financial hardship, the fee may be suspended until the administrative hearing officer renders the decision. The administrative hearing officer may waive the fee upon a finding of financial hardship.
- ~~(g) For the purposes of this chapter, administrative hearing officer means a hearing officer appointed pursuant to section 22-3 of the Scottsdale Revised Code.~~

(g) The city manager shall appoint one (1) or more administrative hearing officers to carry out the provisions of this article.

Sec. 18-105. - Administrative hearing officer—Hearing procedure.

- (a) The administrative hearing officer shall set a date for hearing on the request or appeal within fifteen (15) days of the city clerk's receipt of the request or appeal.
- (b) The hearing shall be informal and without a jury, except that testimony shall be given under oath or affirmation. The technical rules of evidence do not apply, except for the statutory provisions relating to privileged communications. The administrative hearing officer may make orders to fairly and efficiently determine the truth and decide the case. The burden of proof at the hearing shall be on the city by a preponderance of the evidence.
- (c) The administrative hearing officer shall:
 - (1) Render a decision within fifteen (15) days of the hearing.
 - (2) Prepare findings and a decision.
 - (3) Mail the findings and decision to all the parties to the request or appeal, by certified mail unless at the conclusion of the hearing a decision is rendered and communicated to the parties.
- (d) Rule 7 of the Arizona Rules of Procedure in civil traffic violation cases shall govern requests for recusal of the hearing officer.
- (e) Rules 12 and 13 of the Arizona Rules of Procedure in civil traffic violation cases shall govern representation by counsel in these proceedings.

Sec. 18-106. - Administrative hearing officer—Time extensions.

- (a) The administrative hearing officer may grant one (1) extension of the time set forth in an administrative notice to abate under this chapter. The extension shall not exceed ninety (90) days after the date of the hearing.
- (b) The administrative hearing officer shall grant an extension only where it finds:
 - (1) A hardship in bringing the land into compliance within the time set forth in the notice to abate or designation as slum property; and
 - (2) A reasonable plan by which the land will be brought into compliance within the time extension.
- (c) The extension granted by the administrative hearing officer shall run from the date the administrative hearing officer mails the findings and decision as set forth in section 18-105 above.

Sec. 18-107. - Reserved.

Sec. 18-108. - Appeal from decision of the administrative hearing officer.

A party aggrieved by the administrative hearing officer's decision may appeal to superior court. An appeal shall be taken within thirty (30) days of the date of the administrative hearing officer's decision or shall be waived.

ARTICLE VII. - OTHER ORDINANCES

Sec. 18-109. - Reserved.

Sec. 18-110. - Uniform Housing Code.

(a) *Uniform Housing Code—Selective adoption.* Chapters 1, 4, 5, 6, 7, 8, 9 and 10 of the Uniform Housing Code, 1997 Edition, as published by the International Conference of Building Officials and declared a public record in Resolution No. 6104 on June 4, 2002, three (3) copies of which are on file in the city clerk's office, are hereby adopted and incorporated in this chapter as if fully rewritten here. The enforcement provisions of the Uniform Housing Code are not adopted here. The adopted portions of the Uniform Housing Code shall be enforced using the enforcement provisions of Articles V and VI of this chapter ~~18 of the City Code.~~

(b) *Uniform Housing Code—Amendments.* The Uniform Housing Code adopted in subsection 18-110(a) above is amended as follows:

(1) Chapter 2 is replaced as follows:

Chapter 2, ENFORCEMENT

SECTION 201—RULES AND REGULATIONS. The building official or designee shall have the power to render interpretations of this code and to adopt and endorse rules and supplemental regulations to clarify the application of its provisions.

SECTION 202—VARIANCES. The building official may grant a variance to this code when an unusual or unreasonable hardship results from a literal interpretation of this code, if the method or work offered conforms to the general intent of this code. The application for variance and the final decision of the building official shall be in writing and officially recorded with the permanent records of the building official.

SECTION 203—CITY OF SCOTTSDALE BUILDING ADVISORY BOARD OF APPEALS. Reference to the board or the housing and advisory appeals board in this code means the City of Scottsdale Building Advisory Board of Appeals as established and referred to in chapter 31 of the city Code.

(2) Section 401 is amended by replacing the definition of HEALTH OFFICER to read as follows:

HEALTH OFFICER. Health officer is the legally designated head or authorized agent of the Department of Health of Maricopa County.

Sec. 18-111. - Uniform Code for the Abatement of Dangerous Buildings.

(a) *The Uniform Code for the Abatement of Dangerous Buildings—Selective adoption.* Chapters 1 and 3 of the Uniform Code for the Abatement of Dangerous Buildings, 1997 Edition, as published by the International Conference of Building Officials and declared a public record in Resolution No. 6105 adopted on June 4, 2002, three (3) copies of which are on file in the city clerk's office, are hereby adopted and incorporated in this chapter as if fully rewritten here. The enforcement provisions of the Uniform Code for the Abatement of Dangerous Buildings are not adopted here. The adopted portions of the Uniform Code for the Abatement of Dangerous Buildings shall be enforced using the enforcement provisions of Articles V and VI of this chapter ~~18 of the City Code.~~

- (b) *The Uniform Code for the Abatement of Dangerous Buildings—Amendments.* The Uniform Code for the Abatement of Dangerous Buildings adopted in subsection 18-111(a) above is amended as follows:

- (1) Chapter 2 is replaced as follows:

Chapter 2, ENFORCEMENT

SECTION 201. RULES AND REGULATIONS. The building official or designee shall have the power to render interpretations of this code and to adopt and endorse rules and supplemental regulations to clarify the application of its provisions.

SECTION 202. ABATEMENT OF DANGEROUS BUILDINGS. All buildings or portions thereof which are determined after inspection by the building official to be dangerous as defined in this code are hereby declared to be public nuisances and may be abated by repair, rehabilitation, demolition or removal, as determined by the building official in conformance with this chapter 18 of the City Code.

SECTION 203. CITY OF SCOTTSDALE BUILDING ADVISORY BOARD OF APPEALS. Reference to the board or the housing and advisory appeals board in this code means the City of Scottsdale Building Advisory Board of Appeals as established and referred to in chapter 31 of the City Code.

- (2) Section 301 is amended by adding the following definitions:

BUILDING OFFICIAL is the building official for the City of Scottsdale or designee.

HEALTH OFFICER is the legally designated head or authorized agent of the Department of Health of Maricopa County.

- (3) Section 302, subsection 16, is amended to read as follows:

Whenever any building or structure, because of obsolescence, dilapidated condition, deterioration, damage, inadequate exits, lack of sufficient fire-resistive construction, faulty electric wiring, gas connections or heating apparatus, or other cause, is determined by the fire marshal and/or building official to be a fire hazard.